

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

PAUL MANIZAK,

Plaintiff,

v.

Case No. 13-14514

Honorable Denise Page Hood

JOHN DOE, et al.,

Defendants.

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**ORDER ADOPTING MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATION [#39]**

This matter is before the Court on Magistrate Judge Mona K. Majzoub's Report and Recommendation [**Docket No. 39, filed September 17, 2014**] on the following Motions: Defendant Bryant Dsikowicz's Motion to Dismiss [**Docket No. 14, filed February 14, 2014**], Plaintiff's Motion to Amend the Complaint [**Docket No. 20, filed March 10, 2014**], Defendant Bryant Dsikowicz's Second Motion to Dismiss [**Docket No. 22, filed March 24, 2014**], Plaintiff's Motion for Leave to File a Second Amended Complaint [**Docket No. 27, filed April 21, 2014**], and Plaintiff's Motion for Leave to File a Third Amended Complaint [**Docket No. 34, filed June 5, 2014**].

Neither Plaintiff nor Defendant filed an objection to the Magistrate Judge's Report and Recommendation. For the reasons stated below, the Court **ADOPTS**

the Magistrate Judge's Report and Recommendation in its entirety. Defendant Osikowicz's Motion to Dismiss [**Docket No. 14**] is deemed **MOOT**; Plaintiff's Motion to Amend the Complaint [**Docket No. 20**] is deemed **MOOT**; Defendant Osikowicz's Second Motion to Dismiss [**Docket No. 22**] is deemed **MOOT** without prejudice; Plaintiff's Motion for Leave to File a Second Amended Complaint [**Docket No. 27**] is deemed **MOOT**; and Plaintiff's Motion for Leave to File a Third Amended Complaint [**Docket No. 34**] is **GRANTED**.

The Court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.* Objections to the Report and Recommendation must be timely and specific. *See* Fed. R. Civ. P. 72(b)(2); E.D. Mich. L.R. 72.1(d); *United States v. Walters*, 638 F.2d 947, 950 (6th Cir. 1981) ("The filing of objections provides the district court with the opportunity to consider the specific contentions of the parties and to correct any errors immediately.")

"[O]nly those specific objections to the magistrate's report made to the district court will be preserved for appellate review; making some objections but

failing to raise others will not preserve all the objections a party may have.” *Smith v. Detroit Fed’n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). “An ‘objection’ that does nothing more than state a disagreement with a magistrate’s suggested resolution, or simply summarizes what has been presented before, is” insufficient. *Aldrich v. Bock*, 327 F. Supp. 2d 743, 747 (E.D. Mich. 2004). A party’s failure to file any objections waives his or her right to further appeal, *see Smith*, 829 F.2d at 1373, and relieves the Court from its duty to review the matter independently. *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusions for the proper reasons. Granting Plaintiff leave to file a third amended complaint would result in minimal, if any, prejudice to Defendant Osikowicz since Plaintiff’s claims in the proposed Third Amended Complaint and First Amended Complaint are substantially similar, but for the Malicious Prosecution claim. The changes Plaintiff made seem to be attempts to clarify and further support his claims. Other than having to address the additional claim, Defendant Osikowicz would not suffer additional prejudice or any undue burden by the filing by Plaintiff of a Third Amended Complaint.

The Court notes that the Magistrate Judge also notified the parties of their right to “seek review of this Report and Recommendation” and reminded them of the timeline in which to do so. As previously stated, neither Plaintiff nor Defendants have filed any objections to the Magistrate Judge’s September 17, 2014, Report and Recommendation. The Court accepts the Magistrate Judge’s Report and Recommendation as this Court’s findings of fact and conclusions of law.

Accordingly,

**IT IS ORDERED** that the Report and Recommendation of Magistrate Judge Mona K. Majzoub [**Docket No. 39, filed September 17, 2014**] is **ACCEPTED** and **ADOPTED** as this Court’s findings and conclusions of law.

**IT IS FURTHER ORDERED** that Defendant Osikowicz’s Motion to Dismiss [**Docket No. 14**] is deemed **MOOT**.

**IT IS FURTHER ORDERED** that Plaintiff’s Motion to Amend the Complaint [**Docket No. 20**] is deemed **MOOT**.

**IT IS FURTHER ORDERED** that Defendant Osikowicz’s Second Motion to Dismiss [**Docket No. 22**] is deemed **MOOT** without prejudice.

**IT IS FURTHER ORDERED** that Plaintiff's Motion for Leave to File a Second Amended Complaint [**Docket No. 27**] is deemed **MOOT**.

**IT IS FURTHER ORDERED** that Plaintiff's Motion for Leave to File a Third Amended Complaint [**Docket No. 34**] is **GRANTED**.

**IT IS SO ORDERED.**

S/Denise Page Hood  
Denise Page Hood  
United States District Judge

**Dated: February 5, 2015**

**I hereby certify that a copy of the foregoing document was served upon counsel of record on February 5, 2015, by electronic and/or ordinary mail.**

S/LaShawn R. Saulsberry  
Case Manager